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PATENT COOPERATION TREATY

PCT/DE2003/003368



Translation

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference Wj 00677-PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/DE2003/003368	International filing date ( <i>day/month/year</i> ) 10 October 2003 (10.10.2003)	Priority date ( <i>day/month/year</i> ) 17 October 2002 (17.10.2002)
International Patent Classification (IPC) or national classification and IPC B60J 7/14		
Applicant WILHELM KARMANN GMBH		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>3</u> sheets.</p>	
<p>3. This report contains indications relating to the following items:</p> <p>I <input checked="" type="checkbox"/> Basis of the report</p> <p>II <input type="checkbox"/> Priority</p> <p>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p>IV <input checked="" type="checkbox"/> Lack of unity of invention</p> <p>V <input type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p>VI <input type="checkbox"/> Certain documents cited</p> <p>VII <input type="checkbox"/> Certain defects in the international application</p> <p>VIII <input type="checkbox"/> Certain observations on the international application</p>	

Date of submission of the demand 04 June 2004 (04.06.2004)	Date of completion of this report 08 December 2004 (08.12.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE2003/003368

## I. Basis of the report

## 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
pages \_\_\_\_\_ 1-12 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, as amended (together with any statement under Article 19  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_ 1-13 \_\_\_\_\_, filed with the letter of \_\_\_\_\_ 04 June 2004 (04.06.2004)
- ☒ the drawings:  
pages \_\_\_\_\_ 1/10-10/10 \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
pages \_\_\_\_\_, as originally filed  
pages \_\_\_\_\_, filed with the demand  
pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

## 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

## 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/DE 03/03368

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	4, 7, 8, 9, 10, 11, 12, 13	YES
	Claims	1, 2, 3, 5, 6	NO
Inventive step (IS)	Claims	1-10, 12, 13	YES
	Claims	1-13	NO
Industrial applicability (IA)	Claims		YES
	Claims		NO

2. Citations and explanations

1. Reference is made to the following documents:

D1: GB 1 159 790 A (CARROZZERIA PININFARINA) 30 July 1969 (1969-07-30)

D2: US 6 056 352 A (ASC INC) 2 May 2000 (2000-05-02)

D3: DE 44 11 388 C (WEBASTO KAROSSERIESYSTEME) 4 May 1995 (1995-05-04)

D4: EP-A-0 844 125 (KARMANN GMBH W) 27 May 1998 (1998-05-27)

D5: FR-A-2 694 245 (FRANCE DESIGN) 4 February 1994 (1994-02-04)

2. The present application does not meet the requirements of PCT Article 33(1) because the subject matter of independent claim 1 is not novel (PCT Article 33(2)).

2.1 D1 discloses - see figures 1-4, page 1, column 2, lines 54-64, and page 2, columns 1-2, lines 53-80 (the references in parentheses relate to said document):

Cabriolet vehicle with a roof comprising at least one rigid rear roof part (3), said rear roof part (3) having a rear window and being movable independently of an area of the roof

situated in front of said rear roof part in the direction of travel and being storable inside the vehicle body (6), wherein the area of the roof situated in front in the direction of travel comprises at least two roof parts (1, 2) situated one behind the other when the roof is closed and which can be placed at least in part one on top of the other so as to be opened and can be stored in a nested position in the vehicle body (6).

The subject matter of claim 1 is therefore not novel.

- 2.2 The present application does not meet the requirements of PCT Article 33(1) because the subject matter of independent claim 12 does not involve an inventive step (PCT Article 33(3)).
- 2.3 D2 is considered the prior art closest to the subject matter of claim 11. D2 discloses - see column 5, line 56 to column 6, line 67, claim 12 and figures 1-8 (the references in parentheses relate to said document):

A vehicle with a roof (20) comprising at least two individually movable roof parts (22, 24), said roof allowing a plurality of different (partial) opening positions and the vehicle comprising a computer program product (92) enabling a desired roof position to be inputted (30, 82, 84) and, by determining the actual roof position (200, 202, 204, 260, 262), determining a way to achieve the desired roof position.

- 2.4 The problem addressed by the present invention can therefore be considered that of using this system for a folding roof of a cabriolet vehicle.
- 2.5 A person skilled in the art would use this computer program product for a folding roof of a cabriolet vehicle without thereby being inventive - see D3, column 3, lines 49-66 and figure 2.
- 2.6 The subject matter of claim 12 does not therefore involve an inventive step.
3. Dependent claims 2-10 and 13 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT novelty and inventive step requirements.
- 3.1 D1 discloses the subject matter of claims 2, 3, 5 and 6. These claims are therefore not novel.
- 3.2 The subject matter of claims 4, 9 and 10 is known from the prior art and does not involve an inventive step - see, for example, D4, figure 14 for claims 4 and 10.
- 3.3 The subject matter of claims 7 and 8 is disclosed in D5, figure 5, and therefore does not involve an inventive step.
- 3.4 The subject matter of claim 13 is disclosed in D3, figure 2.
4. The combination of features contained in dependent claim 11 is neither known nor obvious from the available prior art.

**INTERNATIONAL PRELIMINARY EXAMINATION REPORT**

Intern application No.  
PCT/DE 03/03368

5. The subject matter of the claims relates to folding roofs and is industrially applicable in, for example, cabriolet vehicles.